

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

SC Court of Appeals

R. Keith Kelly, Circuit Court Judge

Case No. 2013-CP-42-3055
Appellate Case No.:2015-000653

James Travis Singleton, Appellant,

v.

John Davis and Jane Davis, Respondents.

**APPELLANT JAMES TRAVIS SINGLETON'S
REPLY TO JOHN AND JANE DAVIS'S RETURN**

James Travis Singleton (hereinafter Singleton), hereby replies to John and Jane Davis's (hereinafter Davis's) Return to Appellant's Petition for Rehearing of Order Dismissing His Appeal. The Reply was served on June 17, 2015. This Return is filed pursuant to Rule 240(f), SCACR.

I. The Appellant has not failed to file an Initial Appellate Brief within the time period prescribed by Rule 208, SCACR.

Singleton never filed an Initial Appellant Brief because the Court dismissed the Appeal on May 28, 2015. As a result, rather than filing an Initial Brief, Singleton filed a Petition for Rehearing. However, Appellant's Initial Brief would have been filed, in a timely fashion, had the dismissal not been granted.

In order to explain this situation, a time line must be presented.

- 1.) For example, on March 25, 2015, the Appellant, Singleton, filed and mailed his Notice of Appeal;
- 2.) On April 3, 2015, pursuant to Rule 207(a)(1) of the SCACR, Singleton requested an original transcript from the court reporter. On that same date, April 3, 2015, Singleton notified the Clerk of the South Carolina Court of Appeals, that the mandatory request for a transcript had been mailed;
- 3.) On or about April 13, 2015, Singleton, received a **copy** of the transcript (emphasis added);
- 4.) As such, on May 1, 2015, Singleton's counsel wrote to the court reporter, acknowledging receipt of the copy. However, Singleton had requested the original because it would be needed for the Appeal (see attached letter);
- 5.) On or about May 4, 2015, counsel for Singleton spoke with the court reporter and explained the need for an original transcript. Counsel for Singleton was then informed that an original transcript had already been sent to opposing counsel and no other originals were to be allowed. This created a dilemma as Singleton needed the original transcript and, no document, in such proper format, had ever been received. As such, counsel for Singleton requested a compromise and simply asked the court reporter to send a new cover sheet that removed the stamp stating the transcript was a "copy;"
- 6.) Singleton then received a clean cover sheet and thereby an original transcript on May 5, 2015;
- 7.) Singleton then notified the Court of the receipt of the original transcript by letter dated May 14, 2015;

8.) This would mean that Singleton's Initial Brief was due on or before June 4, 2015.

9.) However, in the meantime, the Court dismissed the action on May 28, 2015. As such, Singleton's Initial Brief was not forwarded to the Court on or before June 4, 2015 because the Court had dismissed the Appeal.

The Davis's argue that the transcript was actually received on March 17, 2015 which would make Singleton's Initial Brief due on April 16, 2015. As a result, they have argued that the case should be dismissed because Singleton's Brief was not submitted in a timely fashion.

Rule 207(a)(1) states, in pertinent part, "Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing, with the court reporter for furnishing the transcript. In appeals from the court of common pleas... the transcript must be ordered within ten (10) days of the date of service of the notice of appeal." The rule further states that, "Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below." Just as important, Rule 207(c) of the SCACR states, in pertinent part, "The transcript received, from the court reporter... must be retained by appellant during the entire appeal and for a period of at least one (1) year after the remittitur... is sent to a lower court."

The Davis's argument is disingenuous in a number of ways. First, it leaves out pertinent communications. Second, it disregards the Court's mandates with regard to appellant's ordering transcripts. And, third, had Singleton not requested the transcript, and notified the Court, the Court would have summarily dismissed the appeal for failure to perfect the same.

Also, the Davis's Brief fails to take into consideration how the Court of Appeals works. The Court of Appeals, by design, recognizes circumstances require court reporters and

attorneys to ask for extensions beyond the Court's initial deadlines. For example, if Singleton's brief were, actually, due on April 16, 2015, Singleton would simply have requested an extension from the Clerk of the South Carolina Court of Appeals and, simultaneously, request that all deadlines be held in abeyance. Indeed, those extensions are routinely granted so long as the requested extension is for no more than thirty days. That would mean that Singleton's brief would then be due on May 18, 2015. However, again, the Court of Appeals is very cognizant of the fact that attorneys, practicing in the Court of Appeals, are also practicing before numerous trial courts. As such, the Chief Justice of the Court of Appeals routinely grants additional extension requests. In this case, Singleton would have requested a second extension which would have made his brief due on June 17, 2015.

Obviously, none of these extensions were requested as no formal original transcript had been received. However, it is very important to note that the time to file Singleton's Initial Brief, under the first time line, would be June 4, 2015. Under the Davis's "theory," Singleton's Initial Brief would have been due thirteen days thereafter. In essence, the Davis's "theory" would have been more advantageous to Singleton, as it would have given Singleton more time to file his Initial Brief.

As a result of the above, the Davis's argument fails.

II. The Appellant did state with particularity the points supposed to have been overlooked or misapprehended by this Court, as required by Rule 221, SCACR.

Please recognize that Singleton has petitioned for a rehearing. This is not Singleton's Initial Brief. However, Singleton has clearly, and succinctly explained why the matter should be reheard.

Again, this argument has no merit

III. The Appellant did include supporting documents for the facts he relied on, as required by Rule 240(c)(3).

The issues associated with this Petition arise as a result of an automobile accident case. The only issues to be tried are proximate cause and damages. Regardless, the Trial Court issued an order requiring defense counsel to release a joint defense agreement. That joint defense agreement has no bearing on the issues to be tried. As a result, Singleton did include nine pages of the transcript as those nine pages referred to the issues associated with this Petition.

This was done because Singleton understands that the Court of Appeals handles an enormous volume of cases and does not need superfluous information. For example, had Singleton included the entire twenty-two page transcript, the Court would have been reading documents associated with the following: 1.) Singleton's Motion to Compel Psychological Raw Data; 2.) Singleton's Motion for an Independent Medical Examination; and, 3.) Singleton's Motion to Quash a subpoena issued to a doctor. None of those issues had any bearing on this Petition. As such, and in order to facilitate judicial economy, those portions of the transcript were left out.

Just as important, this matter has been combined for purposes of appeal. Co-Appellant's brief did contain the pleadings which would make this matter even more clear. Again, judicial economy states that Respondents should not forward redundant documents that provide no useful information to this Court.

As such, the argument that Singleton has abandoned his Petition fails.

IV. This Court's dismissal of the underlying appeal as not being immediately appealable does have the effect of finally deciding the Appellant's appeal.

Singleton's Petition succinctly states his reasons why the dismissal of the Appeal is essentially final and cannot be repaired by later appeal. Respondent has cited *Tucker v.*

Honda of South Carolina, Mfg., Inc., 354 S.C. 574 (2003). However, *Tucker* is easily distinguished from the case at bar. For example, the issues in the case of *Tucker* arose as a result of the deposing former Trustee of the Pee Dee Elective Cooperative. Again, this trustee was being deposed and questioned with regard to legal advice given to him or her. The depositions were designed so as to determine whether the trustees for Pee Dee were acting properly. As a result, during the deposition, various questions were raised as to the attorney-client privilege. Thereafter, the Court crafted a very safe method which would allow those depositions to go forth without, unnecessarily, violating the party's attorney-client privileges. When the matter was presented to the Court of Appeals, the Court of Appeals, naturally, dismissed the case as being interlocutory. When the matter was submitted the Supreme Court, the Supreme Court, naturally, did the same. Quite frankly, this is because the actions of the trustees were at issue. Those actions were taken in conjunction with advice being given them by counsel. In other words, it would be impossible to determine what was privileged versus what was not, absent the carefully designed system created by the Court. Indeed, had the Court of Appeals, or Supreme Court, determined that the *Tucker* appeal was not interlocutory and ruled, without any testimony, that no attorney-client privilege information could be disclosed, the door would be closed forever. This would prevent those opposing Pee Dee from even having a record, from which to appeal, at a later date, with regard to these issues.

Tucker has no bearing on the case before the Court. The case before the Court consists of Singleton being involved in an automobile accident with Jane Davis. Singleton has admitted negligence. As such, the only issues to be decided are proximate cause and damages. It had never been alleged that Singleton's counsel had been in the car, or provided any advise to Singleton until after he was sued. The same is true with regard to counsel for USAA. Singleton's actions, which gave rise to this suit, occurred wholly independent from

any advice of counsel. In essence, the Tucker case was totally intertwined with decision making and legal advice whereas Singleton's actions involved none of those issues.

Respondent also cites *Wieters v. Bon-Secours-St. Francis Xavier Hosp., Inc.*, 381 S.C. 332 (2009). Again, Respondent is comparing apples to oranges. This case involves an automobile accident with the issues to be tried being proximate cause and damages. Wieters involved Dr. Tomas Wieters suing the defendants for defamation and civil conspiracy. Dr. Wieters attempted to depose Dr. Deal, who, upon advice of counsel, would not answer questions associated with Dr. Wieters summary suspension as it contained information which was protected by the peer review statute. The lower Court issued an order requiring the protected peer review information be disclosed. The Court of Appeals then received the case and held that discovery order was not interlocutory in nature and reversed the Trial Court's Order requiring the peer review information to be released. The Supreme Court, on the other hand, vacated the Court of Appeals' decision. Again, this appears to have resulted from a Ruling, which, summarily eliminated an attorney's ability to inquire as to the actions and motivations of an opposing party. The ruling would also eliminate a record that can be reviewed on a later appeal. Again, and the undersigned cannot stress this enough, Singleton was involved in an automobile accident with Jane Davis. The Davis's have never alleged that Singleton was driving under the advice of counsel.

Indeed, the sole stated purposes for needing the joint defense agreement is to determine who is representing who, and who is paying for what. Those answers can be found in the pleadings and in the billing. The production of a joint defense agreement has nothing to do with, and in no way will enhance the Davis's two inquiries.

Again, this argument fails.

V. The Court should grant the Appellant's Petition because no South Carolina law holds, given the facts of this case, that a Court can issue an order releasing privileged documents.

The Respondent is unequivocally correct in their assertion that a contempt order is immediately appealable. However, that completely disregards the fact that no one has been held in contempt. We are dealing with an order that violates the party's attorney-client privilege, work product privilege, and, does so despite the fact that the requested documentation is completely irrelevant to the issues in the case.

VI. As a threshold matter, the Circuit Court's Order was actually an abuse of discretion outside of its authority.

Again, my apologies, however, this matter arises as a result of an automobile accident between Singleton and Ms. Davis. No one has alleged that Singleton's conduct, at the time of the incident, was controlled by defense counsel. Despite all of the above, the Davis's requested a joint defense agreement which, if in existence, would only discuss the relationship of the defendants, and their counsel after that relationship was created. Again, all documentation indicates that this relationship was, and could only have been created, after suit was filed. The alleged reason for requesting this information was two-fold: 1.) To determine who was representing who; and, 2.) In order to determine who was paying what. The answer to the first question has long since been answered. (However, in abundance of caution, I will now include all pleadings and attachments.) The answer to the second question can easily be asked without invading the party's attorney-client privilege and work product privilege. Indeed, under the circumstances of this case, it was argued, before the trial court, that the joint defense agreement was completely irrelevant to the issues at hand. Just as important, the trial court, and counsel for the Davis's, have yet to produce a case that states that the court has the authority, under the facts of this case, to issue any such order.

As a result, this matter should be briefed for all of the reasons set forth in the initial
Petition.

June 22, 2015

Respectfully submitted,

MARCUS K. MCGARR, P.A.

Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
108 Whitsett Street
Greenville, S.C. 29601
(864) 298-0089
Attorney for Appellant, James Travis
Singleton

Other Counsel of Record:

Ronald B. Diegel, Esquire
Timothy J. Newton, Esquire
MURPHY & GRANTLAND, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorneys for Appellant, USAA

E. Grey Wicker, Esq.
Michael Spears, Esq.
MICHAEL SPEARS, P.A.
Post Office Box 5806
Spartanburg, SC 29304
(864)583-3535
Attorneys for Respondents

MARCUS K. MCGARR, P.A.

Attorney at Law
A Professional Association
108 Whitsett Street
Greenville, South Carolina 29601

Marcus K. McGarr, Attorney
Amanda Garland, Paralegal
Megan Goudy, Legal Assistant

Bar No.: 011885
Telephone: (864) 298 - 0089
Facsimile: (864) 235 - 0503

May 1, 2015

Margaret A. Woods
Circuit Court Reporter
Seventh Judicial Circuit
Post Office Box 4305
Greenville, SC 29608

RE: Case Name: John Davis and Jane Davis v. James Travis Singleton
CA No.: 2013-CP-42-3055
Appellate CA Nos.: 2015-000653
2015-0006____
Claim No.: 40-OD11-803
MKM No.: 200.1132

Dear Ms. Woods:

We are in receipt and thank you for the copy of the January 7, 2015 transcript regarding the above referenced action. However, we actually need an original so that we can have it given to the Court.

As such, could you please forward us the original as soon as possible?

Sincerely,

MARCUS K. MCGARR, P.A.



Marcus K. McGarr

MKM/meg
Enclosures
cc: Ronald B. Diegel, Esq

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG)

John Davis and Jane Davis,)

COMPLAINT

Plaintiff,)

2013-CP-42-3055

vs.)

C.A.No. 13-CP-42-_____

James Travis Singleton,)

(NEGLIGENCE)

Defendant.)

(JURY TRIAL DEMANDED)

The Plaintiffs, complaining of the Defendant, would respectfully show unto this Honorable Court as follows:

JURISDICTION AND VENUE

1. That Plaintiffs, John and Jane Davis, a married couple, were, at all times mentioned herein, citizens and residents of the County of Spartanburg, State of South Carolina.
2. That, upon information and belief, Defendant James Travis Singleton, was at all times mentioned herein, a citizen and resident of Spartanburg County, South Carolina, residing at 201 East Blackstock Road, Apt. B12, Spartanburg, South Carolina, 29301.
3. That all injuries, breaches, acts and damages complained of herein occurred in the County of Spartanburg, State of South Carolina.

GENERAL ALLEGATIONS

4. That before or around 4:05 PM on June 17, 2011, in the County of Spartanburg, State of South Carolina, Plaintiff Jane Davis had been traveling in her 2005 Chevrolet Impala southbound on East Blackstock Road towards John B. White Sr. Blvd, whereupon she properly come to a complete stop at the red light governing the intersection of the two roads.

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5. That, before or around 4:05 pm on June 17, 2011, a 2001 Ford truck, owned and operated by Defendant James Travis Singleton, was also traveling southbound on the same road behind Plaintiff Jane Davis.

6. That, as Defendant approached the intersection where Plaintiff Jane Davis was stopped, Defendant failed to stop his vehicle for the red light governing the intersection.

7. That the Ford Explorer driven by Defendant forcefully and suddenly struck Plaintiff Jane Davis's car causing grave injury to Plaintiff Jane Davis inside.

8. That Defendant was cited for following too closely and for contributing to the collision, whereas Plaintiff Jane Davis was noted not to have contributed to the collision.

9. That as a result of this accident, Plaintiff Jane Davis suffered severe and painful personal injuries to her body and mind, from which she suffered, now suffers and will continue to suffer, including but not limited to the following particulars, to wit:

- a. Postconcussion Syndrome,
- b. Brain injury, and associated:
 - i. Memory loss,
 - ii. Hearing and vision changes,
 - iii. Ataxia,
 - iv. Depression,
 - v. Sleep Disturbance,
 - vi. Mood swings,
 - vii. Diminished Attention Span,
 - viii. Loss of balance,
 - ix. Diminished Concentration,

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- x. Diffuse cognitive impairment,
 - c. Bodily injuries, including but not limited to, her neck, upper, mid, and lower back,
 - d. Physical pain,
-
- e. Permanent impairment,
 - f. Suffering,
 - g. Mental Anguish,
 - h. Emotional Distress,
 - i. Shock and injury to Plaintiff Jane Davis's nerves and nervous system,
 - j. Past and future medical expenses and other economic losses,
 - k. Loss of personal services, and
 - l. Loss of enjoyment of life.
10. That, as a direct and proximate result of the serious physical and emotional injury suffered by Plaintiff Jane Davis, Plaintiff John Davis has suffered the loss of service, society and companionship of his spouse, all to his own injury and damage, as detailed in Plaintiffs' Third Cause of Action for Loss of Consortium.
11. That Defendant's negligent acts and omissions proximately caused these damages to Plaintiffs and that Defendant is liable for the injuries and damages complained of herein.

FOR A FIRST CAUSE OF ACTION

(On Behalf of Plaintiff Jane Davis)

Negligence Per Se

12. That all acts and omissions alleged hereinabove are repeated as if fully set forth here in their entirety.
13. That South Carolina Code, 1976, § 56-5-950(a), provides that "[t]he driver of any vehicle

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shall obey the instructions of any official traffic-control device[.]”

14. That South Carolina Code, 1976, § 56-5-1930(a), provides that “[t]he driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.”
15. That South Carolina Code, 1976, § 56-5-730, provides that “[i]t is unlawful ... for any person to do any act forbidden or to fail to perform any act required in this chapter.”
16. That South Carolina Code, 1976, § 56-4-1250(a), provides that “[a] person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be so controlled as to avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use due care.”
17. That Defendant violated state statutes and regulations, including but not limited to South Carolina Code, 1976, §§ 56-5-950(a), 1930(a), 730 and 1250(a), in at least the following particulars, to wit:
 - a. In the negligent and careless operation of Defendant’s vehicle, which led to the aforementioned accident;
 - b. In failing to exercise ordinary care and failing to avoid placing others in danger;
 - c. In failing to exercise due care and maintain a proper and prudent lookout so as to avoid striking Plaintiff Jane Davis;
 - d. In failing to steer Defendant’s vehicle or stop so as to avoid colliding with Plaintiff Jane Davis’s vehicle;
 - e. In failing to keep vehicle under control

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- f. In failing to properly respond
- g. In following Plaintiff Jane Davis's vehicle too closely;
- h. In failing to stop at a stop light as required by law; and

- i. In driving too fast for conditions.

- 18. That Defendant is negligent per se based on his violation of these statutory and regulatory violations.
- 19. That these negligent acts and omissions directly and proximately caused Plaintiff Jane Davis personal injury, past and future physical disfigurement, past and future pain and suffering, the cost of past and future medical bills, past and future loss of enjoyment of life, past and future extreme emotional upset, past and future embarrassment, and past and future psychological distress, and have caused her to be unable to function at her previous cognitive level.

FOR A SECOND CAUSE OF ACTION

(On behalf of Plaintiff Jane Davis)

Negligence, Gross Negligence, Recklessness, Willfulness, Wantonness

- 20. That all acts and omissions alleged hereinabove are repeated as if fully set forth here in their entirety.
- 21. That Defendant was negligent, grossly negligent, willful, wanton and reckless in his acts and omissions, in at least the following particulars, to wit:
 - a. In the negligent and careless operation of Defendant's vehicle, which led to the aforementioned accident;
 - b. In failing to exercise ordinary care and failing to avoid placing others in danger;
 - c. In failing to exercise due care and maintain a proper and prudent lookout so as to

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avoid striking Plaintiff Jane Davis;

d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff Jane Davis's vehicle;

e. In failing to keep vehicle under control;

f. In failing to properly respond;

g. In following Plaintiff Jane Davis's vehicle too closely;

h. In failing to stop at a stop light as required by law; and

i. In driving too fast for conditions.

22. That these negligent acts and omissions directly and proximately caused Plaintiff Jane Davis personal injury, past and future physical disfigurement, past and future pain and suffering, the cost of past and future medical bills, past and future loss of enjoyment of life, past and future extreme emotional upset, past and future embarrassment, and past and future psychological distress, and have caused her to be unable to function at her previous cognitive level.

FOR A THIRD CAUSE OF ACTION

(On Behalf of Plaintiff John Davis)

Loss of Consortium

23. That all acts and omissions alleged hereinabove are repeated as if fully set forth here in their entirety.
24. That Defendant owed a duty of care to both Plaintiffs.
25. That Defendant breached such duty of care to both Plaintiffs.
26. As a direct, foreseeable and proximate result of the aforesaid negligent, grossly negligent, willful, wanton and reckless acts and omissions of Defendant, Plaintiff John Davis has been

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forced to endure substantial losses of the marital rights to company, society, cooperation affection, assistance, fellowship, aid and relations with his spouse.

27. Further, as a direct, foreseeable and proximate result of the aforesaid negligent, grossly negligent, willful, wanton and reckless acts and omissions of Defendant, Plaintiff John Davis has been required to become a caregiver for his wife, which has necessitated a reduction in time he can work, resulting in lost wages.

28. That due to the negligent, grossly negligent, willful, wanton and reckless acts and omissions of Defendant, the Defendant is liable to Plaintiff John Davis.

THEREFORE, because of the above, the Plaintiffs seek recovery from Defendant in a reasonable amount of actual damages as well as an exemplary amount of punitive damages.

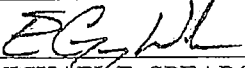
WHEREFORE, the Plaintiffs pray for judgment against the Defendants as follows:

1. As to Plaintiff Jane Davis's First Cause of Action, Negligence Per Se of Defendant:
 - a. For a reasonable amount of actual damages;
 - b. For an exemplary amount of punitive damages;
2. As to Plaintiff Jane Davis's Second Cause of Action, Negligence of Defendant:
 - a. For a reasonable amount of actual damages;
 - b. For an exemplary amount of punitive damages;
3. As to Plaintiff John Davis's Third Cause of Action, Loss of Consortium against Defendant:
 - a. For a reasonable amount of actual damages; and
 - b. For an exemplary amount of punitive damages;

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4. For the costs and disbursements of this action; and
5. For such other relief as the Court may deem just and proper.

August 2, 2013


MICHAEL E. SPEARS, PA
Michael E. Spears, Esquire
E. Grey Wicker, Esquire
122 South Liberty Street
Spartanburg, SC 29306
Post Office Box 5806 (29304)

Attorneys for the Plaintiffs

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STATE OF SOUTH CAROLINA)
)
COUNTY OF Spartanburg)
)
John Davis and Jane Davis,)
)
Plaintiffs,)
)
vs.)
)
James Travis Singleton,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

C.A. NO.: 2013-CP-42-3055

ANSWER
(Jury Trial Requested)

The defendant, answering the complaints of the plaintiffs, would respectfully show unto the Court the following:

FOR A FIRST DEFENSE

1. The defendant denies each and every allegation contained in the plaintiffs' complaint, which is not hereinafter specifically admitted, qualified, or otherwise modified below.

FOR A SECOND DEFENSE

2. The defendant reincorporates such of the preceding allegations as are consistent herewith.

3. Answering paragraph one of the plaintiffs' complaint, the allegations contained therein are admitted upon information and belief.

4. Answering paragraph two of the plaintiffs' complaint, it is admitted that the defendant is a resident citizen of Spartanburg County, SC.

5. Answering paragraph three of the plaintiffs' complaint, it is admitted that an incident took place in Spartanburg County, SC, however, the remaining allegations contained in

paragraph three are denied.

6. Answering paragraph four of the plaintiffs' complaint, it is admitted that on or about June 17, 2011, in Spartanburg, SC, the plaintiff, Jane Davis, was traveling in a 2005 Chevrolet Impala southbound on E. Blackstock Road where it intersects with John B. White Sr. Blvd. It is further admitted that Ms. Davis came to a stop at the intersection.

7. Answering paragraph five of the plaintiffs' complaint, it is admitted that on or about June 17, 2011, James Travis Singleton was driving a 2001 Ford Truck on E. Blackstock Road. He was traveling behind the plaintiff, Jane Davis.

8. Answering paragraph six of the plaintiffs' complaint, it is admitted that the plaintiff, Jane Davis, had stopped at the intersection and the defendant was behind her. It is further admitted that the defendant hit the rear of the plaintiff's vehicle. The remaining allegations contained in paragraph six are denied.

9. Answering paragraph seven of the plaintiffs' complaint, it is admitted that the Ford Explorer, driven by the defendant hit the rear of the vehicle the plaintiff was driving. The remaining allegations contained in paragraph seven are denied.

10. Answering paragraph eight of the plaintiffs' complaint, the allegations contained therein are admitted but are not admissible.

11. Answering paragraph nine of the plaintiffs' complaint, the allegations contained therein are denied.

12. Answering paragraph ten of the plaintiffs' complaint, the allegations contained therein are denied.

13. Answering paragraph eleven of the plaintiffs' complaint, it is admitted that the

defendant was negligent. The remaining allegations contained in paragraph eleven are denied.

14. Answering paragraph twelve of the plaintiffs' complaint, the defendant reincorporates such as the preceding allegations as are consistent herewith.

15. Answering paragraph thirteen of the plaintiffs' complaint, the allegations contained therein are admitted.

16. Answering paragraph fourteen of the plaintiffs' complaint, the allegations contained therein are admitted.

17. Answering paragraph fifteen of the plaintiffs' complaint, the allegations contained therein are admitted.

18. Answering paragraph sixteen of the plaintiffs' complaint, the allegations contained therein are admitted.

19. Answering paragraph seventeen of the plaintiffs' complaint, it is admitted that the defendant was negligent in following too closely. However, the remaining allegations contained in paragraph seventeen are denied.

20. Answering paragraph eighteen of the plaintiffs' complaint, again, it is admitted that the defendant was negligent in following too closely.

21. Answering paragraph nineteen of the plaintiffs' complaint, the allegations contained therein are denied.

22. Answering paragraph twenty of the plaintiffs' complaint, the defendant reincorporates such as the preceding allegations as are consistent herewith.

23. Answering paragraph twenty-one of the plaintiffs' complaint, again, it is admitted that the defendant was negligent in following too closely. However, the remaining allegations

contained in paragraph twenty-one are denied.

24. Answering paragraph twenty-two of the plaintiffs' complaint, the allegations contained therein are denied.

25. Answering paragraph twenty-three of the plaintiffs' complaint, the defendant reincorporates such as the preceding allegations as are consistent herewith

26. Answering paragraph twenty-four of the plaintiffs' complaint, the allegations contained therein are admitted.

27. Answering paragraph twenty-five of the plaintiffs' complaint, it is admitted that the defendant reached a duty of care to Jane Davis. The remaining allegations contained in paragraph twenty-five are denied.

28. Answering paragraph twenty-six of the plaintiffs' complaint, again, it is admitted that the defendant was negligent. The remaining allegations contained in paragraph twenty-six are denied.

29. Answering paragraph twenty-seven of the plaintiffs' complaint, again, it is admitted that the defendant was negligent. However, the remaining allegations contained in paragraph twenty-seven are denied.

30. Answering paragraph twenty-eight of the plaintiffs' complaint, again, it is admitted that the defendant was negligent. However, the remaining allegations contained in paragraph twenty-eight are denied.

FOR A THIRD DEFENSE

31. The defendant reincorporates such of the preceding allegations as are consistent herewith.

32. The plaintiffs' injuries, if any, were in no way caused by contact made between the two parties' vehicles.

33. As such, there is no proximate cause between the damages complained of and the actions of this defendant.

34. Therefore, the plaintiffs' complaint should be dismissed.

FOR A FOURTH DEFENSE

35. The defendant reincorporates such of the preceding allegations as are consistent herewith.

36. If there were any injuries suffered by the plaintiffs, they were pre-existing or post-existing in nature and, therefore, are not proximately caused by this accident.

37. Therefore, the plaintiffs' complaint should be dismissed.

FOR A FIFTH DEFENSE

38. The defendant reincorporates such of the preceding allegations as are consistent herewith.

39. The defendant is informed and believes that the plaintiff has sought medical treatment which is inapplicable to the injuries for which she complains.

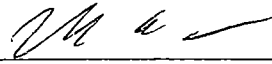
40. As such, the plaintiffs have failed to mitigate their damages and any award against this defendant should be reduced accordingly.

WHEREFORE, the defendant, having answered the complaint of the plaintiffs, would respectfully pray as follows:

(a) That the plaintiffs' complaint be dismissed;

(b) For the costs and expenses associated with the defense of this action; and,

(c) For such other and further relief as the Court deems just and proper.



Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
S.C. Bar No.: 011885
108 Whitsett Street
Greenville, S.C. 29601
Telephone (864) 298-0089
Facsimile (864) 235-0503
ATTORNEY FOR THE DEFENDANT

Greenville, South Carolina
September 10, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF Spartanburg)
)
John Davis and Jane Davis,)
)
Plaintiffs,)
)
vs.)
)
James Travis Singleton,)
)
Defendant.)
_____)

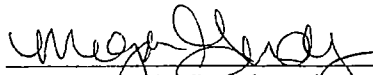
IN THE COURT OF COMMON PLEAS
C.A. NO.: 2013-CP-42-3055

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10TH day of September, 2013, she served the Defendant's Request for a Jury Trial, Answer, Interrogatories, Request to Produce, and a corresponding Certificate of Service upon the individual/entity named below, by depositing the same in the United States Mail, postage prepaid, and properly addressed as follows:

E. Grey Wicker, Esq.
Michael E. Spears, P.A.
PO Box 5806
Spartanburg, SC 29304

Ronald B. Diegel, Esq.
Murphy & Grantland, P.A.
PO Box 6648
Columbia, SC 29260


Megan Goudy, Legal Assistant
Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
108 Whitsett Street
Greenville, South Carolina 29601
Telephone (864) 298-0089
Facsimile (864) 235-0503
Attorney for the Defendant

Greenville, South Carolina
September 10, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

CIVIL ACTION NO: 2013-CP-42-3055

John Davis and Jane Davis,

Plaintiffs,

NOTICE OF APPEARANCE

v.

James Singleton,

Defendant.

TO: MICHAEL E. SPEARS AND E. GARY WICKER, ESQUIRES, ATTORNEYS FOR PLAINTIFFS AND TO THE PLAINTIFFS ABOVE NAMED:

The undersigned, as attorney for USAA , hereby notify and advise this Court, the parties above-named and their attorneys, that they are appearing on behalf of USAA, an insurance carrier which is alleged to provide underinsured motorist coverage to one or more parties to this action and that, in making this appearance, USAA specifically preserves and does not waive any rights pursuant to its policy of insurance including, but not limited to, the applicability of underinsured motorist coverage to this action and further intends to preserve all rights which it may have pursuant to Code Section 38-77-160 (1976 as amended).

(Signature on following page)

Respectfully submitted,

MURPHY & GRANTLAND, P.A.



Ronald B. Diegel, Esquire
P.O. Box 6648
Columbia, South Carolina 29260
(803) 782-4100
Attorneys for **USAA**

Columbia, South Carolina
September 5, 2013

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2013-CP-42-3055

John Davis and Jane Davis,

Plaintiff,

v.

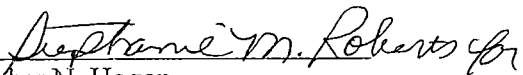
James Travis Singleton,

Defendant.

CERTIFICATE OF SERVICE

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., attorneys for **United Services Automobile Association** do hereby certify that I have served a copy of the foregoing 1) **Plaintiff's Notice of Appearance** in connection with the above-referenced case placing same in the U.S. mail, postage paid to:

Michael E. Spears, Esquire
E. Grey Wicker, Esquire
Michael E. Spears, P.A.
Post Office Box 5806
122 South Liberty Street (29306)
Spartanburg, SC 29304


Amber N. Hogan
Assistant to Ron B. Diegel, Esquire

Columbia, South Carolina
September 5, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
John Davis and Jane Davis,)
)
Plaintiffs,)
)
vs.)
)
James Travis Singleton,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
C.A. NO.: 13-CP-42-3055

**DEFENDANT'S RESPONSES TO THE
PLAINTIFFS' FIRST SET OF
REQUESTS TO ADMIT**

The Defendant, James Travis Singleton, by and through his undersigned attorney, hereby submits the following responses to the Plaintiff's Request to Produce:

1. Admit that, on June 17, 2011, Defendant was traveling Southbound on East Blackstock Road towards John B. White Sr. Blvd, whereupon the Defendant failed to stop his vehicle for the red light governing the intersection (hereinafter, "the red light").

RESPONSE: Denied.

2. Admit that, as a proximate result of the Defendant's failure to stop his vehicle for the red light, Defendant collided into the vehicle driven by the Plaintiff Jane Davis on June 17, 2011.

RESPONSE: Denied.

3. Admit that Defendant was following the Plaintiff Jane Davis's vehicle too closely when he collided into her vehicle on June 17, 2011.

RESPONSE: Admitted.

4. Admit that Defendant's actions were the sole contributing factor to the collision with the Plaintiff Jane Davis's vehicle on June 17, 2011.

RESPONSE: Admitted.

5. Admit that Defendant was the sole cause of the collision with the Plaintiff Jane Davis's vehicle on June 17, 2011.

RESPONSE: Admitted.

6. Admit that Defendant's distraction while driving was the proximate cause of the collision with Plaintiff Jane Davis's vehicle.

RESPONSE: Admitted.

7. Admit that Defendant was using his phone to text message immediately before the collision on June 17, 2011.

RESPONSE: Denied.

8. Admit that the collision with the Plaintiff Jane Davis's vehicle on June 17, 2011 was the proximate cause of the plaintiff Jane Davis's severe and painful personal injuries to her body and mind, as described in the Plaintiff's Complaint.

RESPONSE: Denied.

9. Admit that the collision with the Plaintiff Jane Davis's vehicle on June 17, 2011 was the proximate cause of the plaintiff John Davis's loss of consortium and loss of wages, as described in the Plaintiff's Complaint.

RESPONSE: Denied.

10. Admit that Defendant is negligent per se as a result of violating South Carolina Code Ann. § 56-5-950(a) as alleged in the Plaintiff's Complaint.

RESPONSE: Denied.

11. Admit that Defendant is negligent per se as a result of violating South Carolina Code Ann.

§ 56-5-1930(a) as alleged in the Plaintiff's Complaint.

RESPONSE: Denied.

12. Admit that Defendant is negligent per se as a result of violating South Carolina Code Ann.

§ 56-5-730 as alleged in the Plaintiff's Complaint.

RESPONSE: Denied.

13. Admit that Defendant is negligent per se as a result of violating South Carolina Code Ann.

§ 56-5-1250(a) as alleged in the Plaintiff's Complaint.

RESPONSE: Denied.

14. Admit that Defendant was negligent in one, some or all of the following particulars, to wit:

a. In the negligent and careless operation of Defendant's vehicle, which led to the
aforementioned accident;

b. In failing to exercise ordinary care and failing to avoid placing others in danger;

c. In failing to exercise due care and maintain a proper and prudent lookout so as to
avoid striking Plaintiff Jane Davis's vehicle;

d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff
Jane Davis's vehicle;

e. In failing to keep Defendant's vehicle under control;

f. In failing to properly respond;

g. In following Plaintiff Jane Davis's vehicle too closely;

h. In failing to stop at a red light as required by law; and

i. In driving too fast for conditions.

RESPONSE: It is admitted that the defendant was following too closely and did not keep

a proper lookout.

15. Admit that the Defendant was grossly negligent in one, some or all of the following particulars, to wit:

- a. In the negligent and careless operation of Defendant's vehicle, which led to the aforementioned accident;
- b. In failing to exercise ordinary care and failing to avoid placing others in danger;
- c. In failing to exercise due care and maintain a proper and prudent lookout so as to avoid striking Plaintiff Jane Davis's vehicle;
- d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff Jane Davis's vehicle;
- e. In failing to keep Defendant's vehicle under control;
- f. In failing to properly respond;
- g. In following Plaintiff Jane Davis's vehicle too closely;
- h. In failing to stop at a red stop light as required by law; and
- i. In driving too fast for conditions.

RESPONSE: Denied.

16. Admit that the Defendant was willful in one, some or all of the following particulars, to wit:

- a. In the negligent and careless operation of Defendant's vehicle, which led to the aforementioned accident;
- b. In failing to exercise ordinary care and failing to avoid placing others in danger;
- c. In failing to exercise due care and maintain a proper and prudent lookout so as to avoid striking Plaintiff Jane Davis's vehicle;

- d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff Jane Davis's vehicle;
- e. In failing to keep Defendant's vehicle under control;
- f. In failing to properly respond;
- g. In following Plaintiff Jane Davis's vehicle too closely;
- h. In failing to stop at a red light as required by law; and
- i. In driving too fast for conditions.

RESPONSE: Denied.

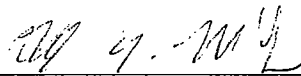
17. Admit that Defendant was wanton in one, some or all of the following particulars, to wit:

- a. In the negligent and careless operation of Defendant's vehicle, which led to the aforementioned accident;
- b. In failing to exercise ordinary care and failing to avoid placing others in danger;
- c. In failing to exercise due care and maintain a proper and prudent lookout so as to avoid striking Plaintiff Jane Davis's vehicle;
- d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff Jane Davis's vehicle;
- e. In failing to keep Defendant's vehicle under control;
- f. In failing to properly respond;
- g. In following Plaintiff Jane Davis's vehicle too closely;
- h. In failing to stop at a red light as required by law; and
- i. In driving too fast for conditions.

RESPONSE: Denied.

18. Admit that Defendant was reckless in one, some or all of the following particulars, to wit:
- a. In the negligent and careless operation of Defendant's vehicle, which led to the aforementioned accident;
 - b. In failing to exercise ordinary care and failing to avoid placing others in danger;
 - c. In failing to exercise due care and maintain a proper and prudent lookout so as to avoid striking Plaintiff Jane Davis's vehicle;
 - d. In failing to steer Defendant's vehicle or stop so as to avoid colliding with Plaintiff Jane Davis's vehicle;
 - e. In failing to keep Defendant's vehicle under control;
 - f. In failing to properly respond;
 - g. In following Plaintiff Jane Davis's vehicle too closely;
 - h. In failing to stop at a red light as required by law; and
 - i. In driving too fast for conditions.

RESPONSE: Denied.



Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
S.C. Bar No.: 011885
108 Whitsett Street
Greenville, S.C. 29601
Telephone: (864) 298-0089
Facsimile: (864) 235-0503
ATTORNEY FOR THE DEFENDANT

Greenville, South Carolina
December 11, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
John Davis and Jane Davis,)
)
Plaintiffs,)
)
vs.)
)
James Travis Singleton,)
)
Defendant.)
_____)


IN THE COURT OF COMMON PLEAS
C.A. NO.: 2013-CP-42-3055

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of December, 2013, she served the Defendant's Responses to the Plaintiffs' First Set of Requests to Admit, and a corresponding Certificate of Service upon the individual/entity named below, by depositing the same in the United States Mail, postage prepaid, and properly addressed as follows:

E. Grey Wicker, Esq.
Michael Spears, P.A.
Post Office Box 5806
Spartanburg, SC 29304

Ronald B. Diegel, Esq.
Murphy & Grantland, P.A.
Post Office Box 6648
Columbia, SC 29260



Amanda Garland, Paralegal to
Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
108 Whitsett Street
Greenville, South Carolina 29601
Telephone (864) 298-0089
Facsimile (864) 235-0503
Attorney for the Defendant

Greenville, South Carolina
December 11, 2013

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP4203055

John Davis Jane Davis	James Travis Singleton Usaa
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
---------------	---

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk: _____

Partial Summary Judgment is granted to the Plaintiff as to the Defendant's negligence. See next pg.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

 2168 4/8/14
 Circuit Court Judge Judge Code Date
For Clerk of Court Office Use Only

This judgment was entered on 8 of April, ¹⁴ and a copy mailed first class or placed in the appropriate attorney's box on 8 of April, ₂₀₁₄ to attorneys of record or to parties (when appearing pro se) as follows:

Edwin Grey Wicker 122 S. Liberty St. Spartanburg, SC 29306

Ronald Barton Diegel PO Box 6648 Columbia, SC 29260
Marcus Kirk McGarr Marcus K. McGarr, P.A. 108 Whitsett Street Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

M Hope Blackley / Mabel M. McGarr
M Hope Blackley - Clerk of Court DC

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Liability is an issue for the jury and summary judgment is denied as to that. We shall proceed to jury trial.

CLERK OF COURT
2014 APR -8 PM 4:49
M. HOPE BLACKLEY

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Appellate Case Nos. 2015-000653
Case No. 2013-CP-42-3055

James Travis Singleton

Appellant,

v.


John Davis and Jane Davis

Respondents.

PROOF OF SERVICE

I certify the I have served Appellant James Travis Singleton's Reply to John and Jane Davis's Return, and corresponding Proof of Service, on John Davis and Jane Davis via United States Postal Service, on June 22, 2015, to their attorneys of record, E. Grey Wicker, Esq. and Michael Spears, Esq., Michael Spears, P.A., 122 South Liberty Street, 29306.

June 22, 2015



Marcus K. McGarr, Esq.
MARCUS K. MCGARR, P.A.
S.C. Bar No.: 011885
108 Whitsett Street
Greenville, S.C. 29601
T: (864) 298-0089
F: (864) 235-0503
Attorney for Appellant, James Travis
Singleton

RECEIVED

JUN 24 2015

SC Court of Appeals

MARCUS K. MCGARR, P.A.

Attorney at Law
A Professional Association
108 Whitsett Street
Greenville, South Carolina 29601

RECEIVED

JUN 24 2015

SC Court of Appeals

Marcus K. McGarr, Attorney
Amanda Garland, Paralegal
Megan Goudy, Legal Assistant

Bar No.: 011885
Telephone: (864) 298 - 0089
Facsimile: (864) 235 - 0503

June 22, 2015

The Honorable Jenny Abbot Kitchings
Clerk of Court
Attn: Amelia Smith
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Case Name: John Davis and Jane Davis v. James Travis Singleton
CA No.: 2013-CP-42-3055
Appellate Case No: 2015-000653
Claim No.: 40-0D11-803
MKM File No.: 200.1132

Dear Ms. Kitchings:

Please find enclosed, an original and seven copies of Appellant James Travis Singleton's Reply to John and Jane Davis's Return, and corresponding certificate of service.

I would appreciate your filing the originals of these documents, clocking the copy, and returning the same to me in the enclosed, stamped, self-addressed envelope provided for your convenience.

Also, please note, that by copy of this letter we are placing all counsel of record on notice that the originals of these documents have been filed with the court.

As always, we thank you and your staff for all your help and assistance you repeatedly provide with regard to these matters.

Sincerely,

MARCUS K. MCGARR, P.A.



Marcus K. McGarr

MKM/meg
Enclosures

cc: E. Grey Wicker, Esq.
Michael Spears, Esq.
Ronald B. Diegel, Esq.
Timothy J. Newton, Esq.
James Travis Singleton
Natalie Patz

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POSTAL SERVICE.

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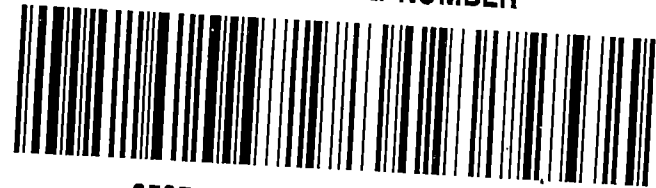
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06/22/2015
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PRIORITY MAIL® 2-Day

Expected Delivery Day: 06/24/2015

USPS TRACKING NUMBER



9505 5103 7346 5173 1145 94

MARCUS K. MCGARR, P.A.
Attorney at Law
108 Whitsett Street
Greenville, South Carolina 29601

RECEIVED

JUN 24 2015

SC Court of Appeals

The Honorable Jenny Abbot Kitchings
Clerk of Court
Attn: Amelia Smith
South Carolina Court of Appeals
1015 Sumter St # 5
Columbia, SC 29201